

Union Calendar No. 82

101ST CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
101-122

CATEGORIES OF SOVIET AND INDOCHINESE NATIONALS PRESUMED SUBJECT TO PERSECUTION AND ADJUSTMENT TO REFUGEE STATUS OF CERTAIN SOVIET AND INDOCHINESE PAROLEES

JULY 6, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on the Judiciary,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 2022]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2022) to establish certain categories of nationals of the Soviet Union and nationals of Indochina presumed to be subject to persecution and to provide for adjustment to refugee status of certain Soviet and Indochinese parolees, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF LEGISLATION

H.R. 2022 has two basic purposes. First, it is designed to facilitate the manner in which Soviet Jews, Soviet Evangelical Christians, and certain categories of individuals from Indochina are processed for admission to the United States as refugees. It does this by, in effect, temporarily re-establishing a presumption that such individuals are, as a group, subject to persecution in their homelands. Second, the bill would allow some 5,000 to 10,000 Soviet and Indochinese individuals who have been (or will be) allowed to come to the United States and remain here permanently, pursuant to the Attorney General's parole authority, to adjust their immigration status from that of a parolee to that of a refugee, thereby giving

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them an opportunity to apply eventually for lawful permanent residency and U.S. citizenship.

HISTORY OF LEGISLATION

On April 18, 1989, the Chairman of the Subcommittee on Immigration, Refugees and International Law, the Honorable Bruce A. Morrision, introduced H.R. 2022. Original co-sponsors included Subcommittee Members Frank, Schumer, Berman, and Fish. Prior to that, on April 6, 1989, the Subcommittee held a hearing on issues regarding Soviet refugees. Witnesses included representatives of the Departments of State and Justice, the General Accounting Office, and Members of Congress.

The Subcommittee on Immigration, Refugees and International Law marked-up H.R. 2022 on April 26, 1989 and ordered the bill favorably reported to the full Committee, without amendment, by a recorded vote of 5 to 4.

COMMITTEE VOTE

H.R. 2022 was considered by the full Committee on June 20, 1989 and was ordered favorably reported to the House by a recorded vote of 30 to 5.

NEED FOR LEGISLATION

I. Presumptive refugee status

A. Religious persecution in the Soviet Union

The Soviet state has always maintained a hostile stance toward religion. Laws on Religion were introduced in April, 1929 and sought to control activities of all religious groups, including Pentecostals, Baptists, Russian Orthodox, Roman Catholic, Jews and Moslems through registration. Congregations that do not register with government agencies are forbidden to exist.

Since 1929, laws restricting religious activities have been included in the Soviet Criminal Code. These laws prohibit formal religious education of children, charitable activities, and evangelism. Penalties of single infractions carry sentences of up to five years in prison or labor camps.

Persecution of the Jewish population in Russia has been a reality since tsarist times. According to Tsar Nicholas, Jews were a people "best dealt with by repression, persecution, and, if possible, conversion." This attitude culminated with state sponsored mass murder, or "programs," in the early twentieth century. Following the Communist takeover, those with suspected Zionist ties were repeatedly purged, and during World War II Hitler's treatment of the Jews received wide support in the Soviet Union.

Pentecostals are part of the conservative evangelical wing of Protestantism, and have lived in the Soviet Union since the 1920s. They have actively sought to emigrate since 1963 because of unremitting persecution and discrimination by the Soviet authorities because they refuse to register their congregations with the government. Pentecostals steadfastly believe that to submit to government regulations through registration is to deny basic biblical principles of their faith. Restrictions affect worship services, pastoral

sermons, religious education of youth and other church activities. As a result, many Pentecostals believe there is no place for them in Soviet society.

On June 19, 1989, President Bush increased the Soviet FY 1989 refugee allotment to 43,500. In explaining the need for the increased Soviet numbers the Administration wrote:

For Christians and Jews alike . . . many difficulties remain. There are shortages of priests, rabbis, teaching facilities, kosher butchers, ritual baths, vernacular religious literature and many other elements needed for full spiritual or cultural expression.

Old hatreds still remain. The most recent example is the violence between Azerbaijani Muslims and Armenian Christians. These animosities are generally kept under control by the government but still flare up from time to time.

Anti-semitism is deeply rooted in Russian history, and one of the side-effects of glasnost has been the emergence of groups such as Pamyat, which express traditional Great Russian nationalism and anti-semitism. Membership in these groups is small, but their rhetoric undoubtedly strikes a responsive chord in the hearts of some Russians, and increases Jewish feelings of insecurity. While the positions these groups take are frequently at odds with government policies and officially the government does not endorse or encourage their virulent anti-semitism, their activities have been tolerated as an unavoidable consequence of glasnost.

Most importantly, none of the reforms has been codified in law. Jews still face many forms of discrimination including exclusion from schools, jobs and housing. Believers also face discrimination in the workplace and elsewhere. There is no independent judiciary to hear and resolve these issues for individuals seeking redress through the system.

The improvements noted above, limited as they are, do not apply to Pentecostals and other evangelical Christians. Their churches are still banned; they still face possible jail sentences for exercising their beliefs, most notably that of conscientious objection, but also evangelical witnessing and holding religious meetings.

B. Processing of Soviet Refugees

Emigration from the Soviet Union has shown sharp fluctuations over the past several decades. In the 1970s, emigration reached unprecedented levels, as tens of thousands of Jews, Germans, and Armenians were granted permission to emigrate. At the high point in 1979, Jewish emigration from the Soviet Union reached 51,222. As broader superpower relations deteriorated in the wake of the Soviet invasion of Afghanistan, Soviet policymakers returned to a narrow interpretation of emigration laws and as a result, in the first half of the 1980s, emigration dropped drastically. For example, from 1983 to 1986, the number of Jews, Germans, and Armenians

allowed to emigrate averaged 1,066, 894, and 185 per year, respectively.

In 1987 Jewish emigration increased ninefold to 8,155, German emigration rose 20 times to 14,448, and Armenian emigration increased 17 times to 3,284. In 1988, emigration more than doubled the 1987 levels, to 19,165, 47,000, and 12,000 respectively. The numbers permitted to emigrate are expected to increase substantially in 1989—potentially reaching 60,000.

In June 1988, Immigration and Naturalization Service (INS) Commissioner Alan C. Nelson was informed by the INS Office of Foreign Operations that "the success of the foreign policy initiatives calling for the Soviet Union to relax emigration restrictions has resulted in an unanticipated flow of Soviet Armenians." The Commissioner was further told that "virtually none of the thousands of Armenians interviewed have claimed persecution or fear of persecution." The Office of Foreign Operations concluded from this that "INS must immediately begin to apply vigorously the * * * refugee definition. We predict that virtually no Soviet Armenians will be found eligible for refugee status."

On August 4, 1988, Attorney General Meese, reacting to INS fears that the United States could not continue to grant refugee status to the growing population of Soviet Armenian refugee applicants, informed National Security Affairs Advisor Colin Powell that "current practices in processing Soviet emigres appear not to conform with the requirements of the 1980 (Refugee Act)." The Attorney General went on to pledge that he would implement "necessary changes."

In October 1988, President Reagan, acting under the authority conferred upon him by the Refugee Act of 1980, authorized the admission of up to 18,000 Soviet refugees in fiscal year 1989. By December 1988, however, it became apparent that this number was inadequate to meet the growing demand. Accordingly, the President raised the Soviet refugee allocation to 25,000. Despite these efforts, backlogs of refugee applicants at the U.S. Embassy in Moscow soared from 1,500 a month in FY 1988 to 4,000 a month by early spring. And the numbers applying in Rome were nearly as high.

By October 1988, not only Soviet Armenians but also Soviet Jews and Pentecostals began to be rejected for refugee status in previously unheard of numbers (nearly 1,000 by January 31, 1989). Currently, approximately 4,000 Soviets, the majority of them Jews, remain in Italy, having been denied refugee status by the United States. A like number are awaiting decisions at the U.S. Embassy in Rome.

On April 6, 1989 witnesses from the General Accounting Office informed the Subcommittee that their on-site investigation of refugee processing in Rome and Moscow revealed "various inconsistencies in the manner in which individual refugee cases were adjudicated." GAO further stated:

We also found a lack of knowledge among the INS Officials in Rome and Moscow about Soviet country conditions and the treatment of specific ethnic and religious groups in the Soviet Union. We noted differing interview ap-

proaches which affected the quality and type of available information upon which to base adjudication, and we think the tremendous volume of refugee applications is a contributing factor since it puts an enormous amount of pressure on the time allotted for processing these cases.

By April 1989, the number of Soviet Jews denied refugee status by the United States had reached 1,470, with an unprecedented disapproval rate of 37 percent having been reached in March. Since the vast majority of these rejected applicants had been processed in Rome, the Italian Government was compelled to arrange for their care and maintenance. The refugee camp in Ladispoli, Italy now houses over 12,000 Soviet refugee applicants, many of whom have been there several months.

The Committee does not dispute the Administration's finding that a substantial number of Armenian refugee applicants were incapable of satisfying the refugee definition. The Committee also believes, however, that in its efforts to correct a process that had reflexively bestowed refugee status on all Soviet citizens, including those undeserving, the Executive Branch overcompensated by imposing unrealistic requirements on Soviet groups widely acknowledged to suffer from persecution, namely Soviet Jews and Evangelical Christians.

The Committee is cognizant that the Soviet Union is undergoing fundamental changes. Similarly, the Committee realizes that the United States does not have the capacity to accept all Soviet citizens who may wish to emigrate and that the option of third country resettlement for Soviet Jews must be seriously explored. Nonetheless, at the present time there can be little doubt that Jews, as a group, continue to suffer from persecution in the Soviet Union. Indeed, even though Soviet Jews, unlike the numerous groups in Indochina, are no longer considered to be subject, as a group, to persecution, and even though the General Accounting Office has found the processing of Soviet Jews by INS in Moscow and Rome to be erratic and inconsistent, approximately 85% of all Soviet Jews processed for refugee status by the United States demonstrate persecution or a well-founded fear of persecution.

For the past 15 years the United States has urged the Soviet Union to allow its citizens freedom of emigration. Due to Soviet exit restrictions, only 640 Soviet citizens were allowed to emigrate as refugees to the United States in 1985. With the liberalization of Soviet emigration policy, the United States will accept up to 43,500 this fiscal year, the majority of them Jews. To meet the challenges of these unprecedented numbers, U.S. refugee processing must be efficient, consistent, and predictable. Therefore, the present process—which in effect requires a separate determination in each case, by each INS adjudicator, as to the conditions of life for Jews and Evangelical Christians in the Soviet Union—serves no purpose other than to promote delay and confusion and waste scarce human and fiscal resources. The Committee believes that the solution to this problem is to establish temporarily a legislative presumption that Soviet Jews and Evangelical Christians are subject to persecution. This is precisely what H.R. 2022 does.

II. Adjustment of status

The power to "parole" aliens into the United States is granted to the Attorney General by section 212(d)(5) of the Immigration and Nationality Act. At the time of its enactment, Congress intended that the parole authority would be used for the temporary admission of groups or classes of aliens. The practice of using the parole provision for the admission of groups or classes of aliens, rather than individuals, originated with the Hungarian refugee crisis. By 1958, 32,000 Hungarians had been paroled into the United States.

Because of the numerical and ideological restrictions of our former refugee laws, parole was used on numerous occasions between 1960 and 1980 to effect the admission of individuals fleeing countries in turmoil. The most notable example has been the Cubans, who were initially paroled into the United States in 1961. By 1979, more than 600,000 had been admitted to the United States as parolees.

In addition to the Cuban refugees mentioned above, parole was utilized in the 1960's and early 1970's for Chinese refugees from Hong Kong and Macao, Czechoslovakian refugees, Soviet Jewish refugees, and Ugandan refugees. In the late 1970's, parole was used for admitting Chilean refugees, Cuban prisoners, Latin American refugees, and beginning in 1975, over 250,000 Indochinese refugees.

Since the enactment of the Refugee Act in 1980, parole has been used less frequently. Nonetheless, within weeks of the enactment of the Act, thousands of Cuban nationals, encouraged by the U.S. Government's pledge to accept them, began making their way to south Florida by boat. During roughly the same period of time thousands of Haitians began arriving on U.S. shores. Unwilling to return these individuals to their homeland and determining that the provision of individualized asylum hearings would serve no useful purpose, the Attorney General allowed the Cuban and Haitian arrivals to remain, pursuant to his parole authority, and designated the class "Cuban/Haitian Entrants." By November 1980, some 125,000 Cubans and 30,000 Haitians were in such status.

An alien granted parole has no protected right to remain in the United States. The conferral of the benefit of parole is in the Attorney General's sole discretion and under "such conditions as he may prescribe." Technically, parole is not considered an "admission" to the United States, which means that parolees, no matter how long they have actually been physically present in the United States, are provided no more right to "enter" the United States than an alien applying for admission from abroad. Thus, a parolee who wishes to contest a threatened expulsion is provided an exclusion hearing, rather than the more formal and judicial reviewable, deportation hearing.

An alien paroled into the United States is ineligible to apply for any nonimmigrant classification, and although a parolee may apply for adjustment of status to lawful permanent residency, such adjustment is contingent upon the alien's ability to qualify for an immigrant visa on the basis of a family relationship or a needed work skill, just as it is for all other intended immigrants worldwide. In short, a parolee has no inside track.

In the case of alien whom the Attorney General has paroled into the United States not for any short term, time limited reason, but instead under circumstances that suggest, explicitly or implicitly, that the parole will remain in effect indefinitely, parole status is an unacceptable alternative to a more permanent and defined immigration status. Perhaps the most troubling aspect for such individuals is that parole may be revoked for any or no reason, at any time. This continual uncertainty as to one's right to remain in the United States impacts on the individual's ability to plan his life. Decisions as to whether to marry, raise children, purchase a home, or start a business cannot be made simply on the merits, since the specter of forced uprooting is always on the horizon. Moreover, a parolee, no matter how long here, is legally incapable of petitioning for the admission of a family member under our immigration laws, since that right is available only to U.S. citizens and lawful permanent residents.

Recognizing the inequity of permitting individuals to remain in the United States in a status of perpetual parole, Congress has time and again enacted special legislation to allow parolees to regularize their immigration status. Most recently, Congress enacted, as part of the 1986 Immigration Reform and Control Act, a provision to allow "Cuban/Haitian Entrants" (discussed above) to become lawful permanent resident aliens (Public Law 99-603, section 202). Similar legislation was enacted in 1977 for the benefit of Indochinese parolees (Public Law 95-145, section 101) and in 1966 for the benefit of Cuban parolees (Public Law 89-732, as amended). It is also noteworthy that the present Administration has submitted to Congress legislation (introduced as H.R. 2646) to regularize the status of the same Soviet and Indochinese parolees who would be adjusted under the provisions of H.R. 2022.

ANALYSIS OF LEGISLATION

I. Presumptive refugee status

Section 1 of H.R. 2022 establishes a presumption that Jews and Evangelical Christians in the Soviet Union are, as a group, subject to persecution. The Committee has avoided the use of labels, such as the term, "rebuttable presumption" in describing the process intended by section 1, since such terms are themselves subject to varying interpretations and applications. Nonetheless, the presumption established by section 1 may be thought of as a rebuttable presumption in the sense that INS would continue to have the opportunity to determine that an individual applicant has not been persecuted or does not have a wellfounded fear of persecution. The burden, however, would be upon INS to produce independently information probative of that fact. The language of section 1 is designed to ensure that once an individual establishes that he is a member of the covered class and asserts that he has been persecuted or has a fear of persecution that individual shall be deemed a refugee subject only to whatever countervailing evidence INS may have or produce to establish that the individual was not persecuted or could not reasonably have a well-founded fear of persecution.

The use of presumptions to establish facts is an integral part of the American legal process. As a leading treatise on evidence states—

Presumptions are to be found at common law and in a variety of statutes. In some statutes presumptions are concealed behind another form of words, such as a declaration that one fact is *prima facie* evidence of another, or a provision dealing directly with the shifting of burdens resulting from the production of evidence. Any complex statutory scheme is likely to require the operation of presumptions to render it workable, and if the statute does not create its own presumptions the judiciary will make up the deficiency (Friedenthal and Singer, "The Law of Evidence," 1985, p. 273).

The 1980 Refugee Act is silent as to the use of presumptions; they are neither specifically authorized nor prohibited. Three years after the Act's enactment, however, the President, acting through National Security Decision Directive Number 93, directed the Attorney General to determine "whether there are categories of persons who, under the Refugee Act of 1980, share common characteristics that identify them as targets of persecution in a particular country." The Directive further states, "applicants for refugee status who fall into any such categories of fact as may be determined by the Attorney General and who allege persecution will not have to provide independent evidence regarding persecution."

In August 1983, pursuant to National Security Decision Directive 93, the Immigration and Naturalization Service published a list of such categories in the document entitled, "Worldwide Guidelines for Overseas Refugee Processing." That list, which is still in effect, includes ten categories of Vietnamese (e.g., Catholics, Ethnic Chinese, Buddhist Monks), six categories of Laotians (e.g., Hmong, persons educated in the West), and eight categories of Cambodians (e.g., members of the pre-1975 military, persons who have relatives in the United States).

According to the 1983 INS Guidelines, "If the applicant clearly proves that he comes within an established category, he has also established that he is a likely target of persecution." The Guidelines further state that the categories listed were established "on the basis of careful review and extreme factual evidence." And the use of categories "will save the (INS) officers valuable interviewing time and result in a fair assessment of refugee applications based on experience with many thousands of refugees from the region and conditions in the country of origin."

Although the 1983 Guidelines established no categories outside Indochina, it is generally recognized that prior to September 1988 U.S. policy vis-a-vis the Soviet Union was to regard virtually all Soviet citizens wishing to depart as refugees. To a large extent, this attitude was reflected in U.S. law as it existed prior to the enactment of the 1980 Refugee Act, since from 1965 through 1980 an individual could not statutorily qualify for refugee status unless he was fleeing from a Communist or Middle East country. But with the enactment of the Refugee Act, ideological and geographical prerequisites to a finding of refugee status were removed. The test

became, and remains, whether an individual can demonstrate persecution or a well-founded fear of persecution on the basis of race, religion, nationality, political opinion or membership in a particular social group. The fact that an individual comes from a Communist country does not, without more, qualify the individual for refugee status.

The Committee wishes to stress that under existing law and under H.R. 2022 an individual who has been determined by the U.S. Government to be a refugee is not necessarily entitled to admission to the United States. For example, an individual may be a refugee but may be excludable for having committed a serious crime. Similarly, a refugee may be firmly resettled in a third country and therefore statutorily ineligible for admission to the United States as a refugee. And most importantly, a refugee number must be available within the ceiling established by the President for that particular region of the world. Nothing in H.R. 2022 would alter or is intended to alter that requirement.

H.R. 2022 also directs the Attorney General to establish in Indochina procedures of the type established by H.R. 2022 for Soviet Jews and Evangelical Christians. As noted above, a number of categories of individuals deemed subject to persecution in Indochina have been recognized by the Attorney General since 1983. The Committee expects the Attorney General to re-evaluate this list to determine whether certain categories should be added or deleted or redefined. And to the extent the effect of an individual's placement within a category in Indochina results in processing procedures inconsistent with H.R. 2022 those procedures should be altered.

Section 1 sunsets the required use of categories in the Soviet Union and Indochina on September 30, 1990. The Committee does not believe it is appropriate to establish fixed rules as to the best method of responding to refugee situations, since by definition such situations are fluid. The Committee intends to closely monitor the operation of the presumptions established under, and pursuant to, H.R. 2022 and to reassess their continued viability and usefulness in the 1990's.

II. Adjustment of status

Section 2 of H.R. 2022 requires the Attorney General to adjust to refugee status an alien who was a national of the Soviet Union, Vietnam, Laos or Cambodia if such alien—(1) was (or is) denied refugee status by the United States between August 15, 1988 and September 30, 1989; (2) was (or is) paroled into the United States; (3) is not excludable under the provision of law that deals generally with the grounds for exclusion of refugees; and (4) applies for such adjustment at any time.

The bill makes it clear that the number and categories of individuals adjusted under section 2 shall not have any effect on the number and categories of individuals who have been or will be admitted to the United States from abroad as refugees.

Under current law, an individual who has been granted refugee status and who has been physically present in the United States for at least one year may adjust his status to that of a lawful permanent resident alien. Such adjustments are not deducted from any quotas that would otherwise limit the number and types of in-

dividuals eligible to so adjust. With respect to aliens adjusted to refugee status under H.R. 2022, these same rules would apply.

As for numbers, the Committee has been recently informed that since February 1989 indefinite "public interest" parole has been offered to 2,225 Vietnamese in Vietnam under the Orderly Departure Program (ODP). Current U.S. policy under ODP is to provide the option of such parole to Vietnamese who do not meet the refugee test and who do not qualify to come to the United States under the family reunification provisions of immigration law. Prior to February, the use of indefinite public interest parole was rare or nonexistent, since, according to INS, Vietnamese who did not qualify for immigrant visas were granted refugee status "virtually automatically." (Testimony of Ralph Thomas, Deputy Assistant Commissioner for Refugees, Asylum and Parole, Hearing before the Subcommittee on Immigration, Refugees and International Law, June 28, 1989.)

The August 15, 1988 cut-off date contained in H.R. 2022 reflects the approximate date when Soviet refugee applications began to be denied at any appreciable rate. As noted earlier in this Report, U.S. policy regarding refugee applications from Soviet citizens shifted abruptly soon after the "Meese letter" of August 4. Since October, indefinite public interest parole has been offered to all Soviet citizens denied refugee status, whether in Rome or Moscow. As of early April 1989, 4,889 Soviet citizens had been offered such parole, and the Department of State has estimated that it will be offered to an additional 19,000 Soviets before the end of this fiscal year.

ADMINISTRATION POSITION

The Administration does not support the enactment of H.R. 2022.

OVERSIGHT STATEMENT

Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee states that it has exercised close oversight with regard to the administration of the refugee laws of the United States and will continue to do so.

Clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives is inapplicable since no oversight findings and recommendations have been received from the Committee on Government Operations.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that this bill will not have an inflationary effect on prices and costs in the operation of the national economy.

ESTIMATE OF COST

Pursuant to clause 7, rule XIII of the Rules of the House of Representatives, the Committee concurs with the cost estimates set forth below by the Congressional Budget Office.

BUDGETARY INFORMATION

Clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because the instant legislation does not provide new budget authority. Pursuant to Clause 2(1)(3)(C) of rule XI, the following estimate was prepared by the Congressional Budget Office and submitted to the Committee:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 27, 1989.

HON. JACK BROOKS,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the following cost estimate for H.R. 2022, as ordered reported by the House Committee on the Judiciary on June 20, 1989. We estimate that the bill would have no cost to the Federal Government.

The bill would alter the refugee status of two groups of aliens. First, it would require the Attorney General to establish certain categories of nationals of the Soviet Union and of Indochina who would be presumed to be subject to persecution and, as a result, would increase the probability of their being given refugee status. The bill itself would designate two such categories, namely nationals of the Soviet Union who are either Jewish or Evangelical Christians. Admission as refugees under these categories would extend from the date of enactment until September 30, 1990. Second, the bill would allow certain aliens who were granted parole in the United States (after being found ineligible for refugee status) to apply for refugee status. To be eligible, the aliens must have arrived between August 15, 1988 and September 30, 1989.

This bill would potentially affect costs in the Refugee Resettlement Program. This program, however, is not currently authorized for 1990 or beyond; thus the bill would have no budgetary impact.

If the Refugee Resettlement Program were authorized, the budgetary effect of H.R. 2022 would be additional authorizations of \$10 million in 1990 and \$8 million in 1991. Outlays resulting from these authorizations would be \$7 million in 1990, \$8 million in 1991, and \$3 million in 1992. The only group that would create additional program costs would be aliens whose status would change from parolee to refugee. The bill would affect about 6000 such aliens. The other group that would be presumed subject to persecution by this bill would still be limited in number by the President's ceiling for refugees in 1990. If the Refugee Resettlement Program were authorized for these additional expenditures, state and local governments would have outlays savings of approximately \$4 million in 1990 and \$3 million in 1991.

We will be happy to provide further details on this estimate. The CBO contact is Richard Curley (226-2820).

Sincerely,

ROBERT D. REISCHAUSER, *Director.*

COMMITTEE RECOMMENDATION

After careful consideration of this legislation, the Committee is of the opinion that this bill should be enacted and accordingly recommends that H.R. 2022 do pass.

DISSENTING VIEWS OF HON. LAMAR S. SMITH, HON. D.
FRENCH SLAUGHTER, JR., AND HON. LARKIN I. SMITH

Although we share the sincere concern of others over the huge number of Soviet emigres seeking to leave the Soviet Union and especially over cases backlogged in Rome and Vienna, we do not believe that this bill is the proper response.

H.R. 2022 would create a presumption for Soviet Jews, Christian Evangelicals, and Indochinese to be granted refugee status until the end of Fiscal Year 1990 as they were prior to August 15, 1988. The bill provides that all individuals who were granted parolee status between August 15 and September 30, 1989, could reapply for refugee status under the same presumptive standard established in the legislation. The bill also adjusts all individuals who have been granted parole status to permanent resident status as proposed by the Administration.

First, the bill is unnecessary. The 1980 Refugee Act provides for emergency consultations between the Executive and Legislative branches and, as our colleagues know, last month, the Administration and the Congress, in emergency consultations, added 22,500 additional refugee positions for the remainder of Fiscal Year 1989. Furthermore, the FY 1990 consultations will take place in just a couple of months.

This bill establishes a dangerous precedent because it violates the Refugee Act of 1980 by establishing a nation-specific presumption for certain Soviet emigres as well as certain Indochinese. As our colleagues know, many countries have huge refugee populations. From the latest refugee reports, we understand there are close to 14 million refugees around the world, many of whom would like to come to the United States. The Refugee Act was established to initiate a consistent and even-handed policy for our acceptance of refugees. H.R. 2022, although well intended, sets a regrettable precedent for future special interest legislation.

This legislation does not authorize funding for the resettlement of these new refugees in the United States. However, the cost of this bill will be enormous. We already provide millions of dollars of assistance to refugees for their successful resettlement, and H.R. 2022 will add to this cost.

Recently, special immigrant legislation, H.R. 2646, was introduced on behalf of the Administration. This measure seeks to establish long-term solutions for the large number of emigrants leaving the Soviet Union, as well as for others. H.R. 2646 would give the President the ability to quickly respond when an international situation arises in which the government determines that it is in the national interest to admit large numbers of aliens who do not qualify for immediate admission as immigrants or refugees. This special immigrant legislation would provide up to 30,000 immigrant visas that would be available annually for persons and groups des-

ignated under the provisions of this bill after a consultation with Congress.

H.R. 2646 also contains a provision that authorizes the adjustment to permanent resident status of persons who are in parole status. Special immigrants would be entitled to petition immediately for the entry of spouses and unmarried children. H.R. 2646 is the more appropriate response to this Soviet situation than is H.R. 2022.

In sum, this special immigration bill, H.R. 2646, protects the integrity of our refugee law, providing an impartial, nonpolitical process for persons who suffer true persecution, while allowing for certain humanitarian immigrants to enter each year.

H.R. 2022, by contrast, makes refugee resettlement a political weapon, to be used by one group of potential refugees and their supporters against others. Refugees resettle here permanently, and persons who do not meet the refugee definition should not be granted this privilege ahead of millions of others waiting patiently throughout the world.

For these reasons, we oppose H.R. 2022. The following is a letter from the Department of State, explaining its opposition to the bill:

U.S. DEPARTMENT OF STATE,
Washington, DC, June 19, 1989.

Hon. BRUCE A. MORRISON,
Chairman, Subcommittee on Immigration, Refugees, and International Law, Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: This responds to your request for the views of the Department of State on H.R. 2022 "to establish certain categories of nationals of the Soviet Union and Indochina presumed to be subject to persecution and to provide for adjustment to refugee status of certain Soviet and Indochinese parolees."

The Department of State shares the bill's objectives of ensuring our nation's ability to continue generous resettlement of emigrants from the Soviet Union, and we share the special concern for Soviet Jews and Pentecostals. Nonetheless, we do not favor its enactment. The bill seeks to create a legislative presumption of refugee status for Soviet Jews and Evangelical Christians and for other applicants for refugee admission.

The existing provisions of the Refugee Act of 1980, as amended, already permit the Attorney General to establish categories of applicants who share common characteristics that identify them as targets of persecution in a particular country. Accordingly, we do not believe legislation enabling or mandating the creation of categories is necessary. Moreover, in our overall review of Soviet refugee policy, we will be considering whether such categories are warranted for particular groups of Soviets. We do not favor preemption of the review by legislation.

We note that the bill seems to point toward a U.S. commitment to resettle all Soviet Jews and Evangelical Christians. There could be hundreds of thousands of applicants, who, in the absence of clearly established processing priorities, might have to wait in line for months or even years. The budgetary implications of such numbers are potentially staggering. In its policy review, the Adminis-

tration is looking for ways to manage the resource implications of increased emigration from the Soviet Union. We look forward to working with the Congress on this difficult and challenging issue.

Finally, the Administration has recently submitted to the Congress new legislation to give the U.S. flexibility to admit persons who do not qualify for admission as refugees or regular immigrants, and provide them the opportunity to become permanent residents. The primary beneficiaries of this legislation would probably be Soviet emigrants, but it could also be useful in other regions such as Southeast Asia, where new flexibility is needed. We hope that the Congress will give this legislation prompt and serious attention beginning with Judiciary Committee consideration.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

JANET G. MULLINS,
Assistant Secretary, Legislative Affairs.

LAMAR SMITH.
D. FRENCH SLAUGHTER, Jr.
LARKIN SMITH.

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